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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/689,592 10/13/2000		Hiroyuki Tanimura	2185-0475P	8209	
7590 03/15/2004			EXAMINER		
Birch Stewart PO Box 747	Kolasch & Birch LLP	REDDICK, MARIE L			
	VA 22040-0747		ART UNIT	PAPER NUMBER	
			1713		

DATE MAILED: 03/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

		Applicatio	n No.	Applicant(s)				
Office Action Summary		09/689,59	2	TANIMURA ET AL.				
		Examiner		Art Unit				
		Judy M. Re		1713				
Period fo	The MAILING DATE of this communication ap or Reply	pears on the	cover sheet with the c	orrespondence ad	ldress			
THE I - Exter after - If the - If NO - Failu Any r	ORTENED STATUTORY PERIOD FOR REPI MAILING DATE OF THIS COMMUNICATION sions of time may be available under the provisions of 37 CFR 1 SIX (6) MONTHS from the mailing date of this communication. period for reply specified above is less than thirty (30) days, a re period for reply is specified above, the maximum statutory perior re to reply within the set or extended period for reply will, by statu eply received by the Office later than three months after the mailed patent term adjustment. See 37 CFR 1.704(b).	.136(a). In no eve ply within the statu d will apply and wil te. cause the appli	nt, however, may a reply be tim tory minimum of thirty (30) day: expire SIX (6) MONTHS from cation to become ABANDONE	nely filed s will be considered time the mailing date of this c D (35 U.S.C. § 133).	ly. ommunication.			
Status								
1)	Responsive to communication(s) filed on <u>26 February 2004</u> .							
	This action is FINAL . 2b)⊠ This action is non-final.							
3)[Since this application is in condition for allow				e ments is			
	closed in accordance with the practice under	Ex parte Qu	ayle, 1935 C.D. 11, 4	53 O.G. 213.				
Dispositi	on of Claims							
5)□	Claim(s) <u>1-4</u> is/are pending in the application 4a) Of the above claim(s) is/are withdr Claim(s) is/are allowed. Claim(s) <u>1-4</u> is/are rejected. Claim(s) is/are objected to. Claim(s) are subject to restriction and	awn from cor						
Applicati	ion Papers							
,	The specification is objected to by the Examin							
10)	10)☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner.							
	Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).							
11)□	Replacement drawing sheet(s) including the correct The oath or declaration is objected to by the latest to be the latest and the same of the latest and the same of the latest and the same of the latest and the latest							
Priority (under 35 U.S.C. § 119							
a)	Acknowledgment is made of a claim for foreign All b) Some * c) None of: 1. Certified copies of the priority docume 2. Certified copies of the priority docume 3. Copies of the certified copies of the priority docume application from the International Bure See the attached detailed Office action for a list	nts have bee nts have bee iority docume au (PCT Rule	n received. n received in Applicat ents have been receive e 17.2(a)).	ion No ed in this Nationa	l Stage			
2) Notice 3) Infor	ot(s) See of References Cited (PTO-892) See of Draftsperson's Patent Drawing Review (PTO-948) See of Draftsperson's Patement(s) (PTO-1449 or PTO/SB/0 Ser No(s)/Mail Date	8)	4) Interview Summary Paper No(s)/Mail D 5) Notice of Informal R 6) Other:	/ (PTO-413) ate Patent Application (PT	⁻ O-152)			

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/26/04 has been entered.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-4 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16 of U.S. Patent No. 6,479,579 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because the process for producing a polyolefin-based resin composition which basically involves melt-kneading 100 parts by weight of a polyolefin-based resin and not less than 0.05 parts by weight

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and less than 2 parts by weight of polymer fine particles containing 0.10 to 90 % by weight of a volatile component wherein said polymer fine particles are made of polymer obtained by polymerizing at least one monomer selected from the group consisting of styrene, methyl acrylate, methyl methacrylate, 2-ethylhexyl acrylate and 2-ethylhexyl methacrylate and wherein the volatile component is selected from the group consisting of saturated hydrocarbons. ketones, aldehydes, ethers, mixtures thereof, water and mixtures of water and alcohol per the instantly claimed invention differs basically from the claims of U. S. '579, drawn to a process for producing an anti-blocking agent master batch, which comprises melt-kneading 100 parts by weight of a polyolefin-based resin and 2 to 100 parts by weight of polymer fine particles containing 0.38 to 20 % by weight of a volatile component wherein, the volatile component is water, in the polymer fine particles content. However, the instant claims would have been prima facie obvious over the claims of U.S.'579 in view of the close proximity between the polymer fine particles recited in the instant claims(less than 2 parts by weight) and the polymer fine particles content per the claims of U.S.'579(2 parts by weight) and the expectation that the resulting compositions would have substantially the same properties. As to the "polymer fine particles" of U.S. '579, in terms of specifics, such is generic to the polymer fine particle of the instant claims and necessarily implies that any species, including the claimed species, would have been operable within the scope of the claimed invention and with a reasonable expectation of success.

Response to Arguments

3. Applicant's arguments, see the REMARKS, filed 02/26/04, with respect to the rejection(s) of claim(s) 1-4 under 35 USC 102(b or e) over Otawa et al or Yamazaki et al have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of the newly discovered prior art.

Conclusion

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Judy M. Reddick whose telephone number is (571)272-1110. The examiner can normally be reached on Monday-Friday, 6:30 a.m.-3:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571)272-1114. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Judy M. Redduck Judy M. Reddick Primary Examiner Art Unit 1713 Page 4

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